



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TTY Access via relay - 711

Environmental Management Support, Inc.
Attn: Mr. Don West
8601 Georgia Avenue, Suite 500

December 8, 2006

Silver Spring, MD 20910

Subject: 2006 EPA Brownfields Revolving Loan Fund Grant Application

Dear Mr. West:

The Wisconsin Brownfields Coalition (WBC) is applying for \$3 million to continue Wisconsin's Brownfields Revolving Loan Fund (RLF), known as the Ready for Reuse program. The WBC members are the Wisconsin Departments of Administration (DOA), Commerce and Natural Resources (WDNR). The local government members include 7 Regional Planning Commissions (RPCs), including 5 tribal members of one RPC, and covering 54 of the 72 counties in the state. In addition, the City of Delavan has joined the WBC.

In 2004, the WBC received a \$4 million brownfields RLF grant for this statewide initiative. Since that time, the WBC has developed the administrative infrastructure and expertise needed to administer this brownfields RLF. The WBC has strived to provide the Wisconsin applicants with clear application information and standardized documents to assist in simplifying this federal program. The WBC is applying for additional funds, given that in the past 5 months, the WDNR has received \$3.1 million in RLF fund requests, and if awarded, it would leave the WBC with no hazardous substance funds by the spring of 2007. In addition, the WBC has met with 7 other potential applicants concerning possible RLF projects. In the next 30 days, the WDNR expects to close on 2 sub grants and one loan.

The WBC is seeking to continue the "Ready for Reuse" initiative, as a reflection of the critical need for clean-up dollars to move Wisconsin's estimated 8,000 brownfields properties to the redevelopment stage. Wisconsin's economy has improved in the last two years; however, there are several less-than-favorable factors that are of concern to those who understand the economic factors that drive brownfields redevelopment. Since 2000, Wisconsin has lost 80,000 manufacturing jobs. In 2006, the Corporation for Enterprise Development (CED) issued their annual report card concerning development opportunity in the 50 states. Wisconsin received decent grades for "business vitality", "performance", and "development capacity." However, there are two economic grades that are of concern: (1) Wisconsin received a "D" in "entrepreneurial energy" (e.g., job creation by start ups, proportion of employment by the tech industry), leaving Wisconsin ranked 47th in the nation in "new company formation"; and (2) Wisconsin received a "D" in employment, due to the number of layoffs and mass plant

closings. This continuing economic challenge is reflected in the recent news that Wisconsin faces a \$1.6 billion dollar budget deficit that must be reconciled by July 2007 in order to balance the state budget.

Given these continuing economic challenges, the WBC proposes to target the much-needed RLF funds to community-driven brownfields projects that would not otherwise receive any, or sufficient, state cleanup funds. In particular, the WBC will dedicate funds towards green space projects, public use projects, and to "jump start" private investment in economic development projects. The WBC will strive to achieve a balance of projects, with particular interest in the following: (1) projects in neighborhoods or communities that are economically distressed due to plant closing, layoffs, poverty or unemployment levels being above the state average; (2) brownfields projects along waterfronts that result in economic benefits, ecosystem protections, access to recreational areas, or a combination of these; (3) striking a balance between urban and rural projects, with a fair balance of projects funded across the state; and (4) promoting the use of innovative clean up techniques, sustainable development practices, and integration of brownfields and smart growth planning.

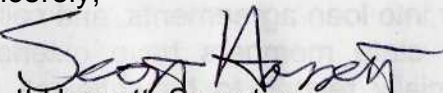
Mandatory Contents of Cover Letter:

1. **Applicant Identification:** Wisconsin Department of Natural Resources, 101 S. Webster Street, P.O. Box 7921 RR/3, Madison WI 53707-7921.
2. **Funding Request:** \$3,000,000 Brownfields Revolving Loan Fund (RLF) grant for clean up of hazardous substances.
3. **Location:** State of Wisconsin; Chief Executive: Governor: Jim Doyle, P.O. Box 7863, Madison, WI 53707, 608-266-1212; Scott Hassett, WDNR Secretary, 101 S. Webster St., Madison, 53709, Scott.Hassett@wisconsin.gov. Phone: 608-266-2621, 608-267-6897(Fax); Michael Morgan, Secretary, Department of Administration, 101 E. Wilson St., Madison, 53702, Michael.Morgan@Wisconsin.gov, 608-266-1741, 608-267-3842 (Fax); Mary Burke, Secretary of Commerce, 201 W. Washington Ave., Madison, 53702, Marv.Burke@Wisconsin.gov, 608-266-7088; 608-266-3447 (Fax); Mark Walter, Executive Director, Bay-Lake Regional Planning Commission (RPC), 211 N Broadway, #211, Green Bay, 54303-2757, Mwalter@baylakerpc.org, 920-448-2820, 920-448-2823 (Fax); Eric Fowle, Executive Director, East Central Wisconsin RPC, 132 Main Street, Menasha, 54952, efowle@eastcentralrpc.org, 920-751-4770, 920-751-4771 (Fax); Dennis Lawrence, Executive Director, North Central RPC, 210 McClellan St. Suite 210, Wausau, Staff@ncwrpc.org, 715-849-5510; 715-849-5110 (Fax); Myron Schuster, Executive Director, Northwest RPC, 1400 South River St., Spooner, 54801, Mschuster@nwrpc.com, 715-635-2197, 715-635-7262 (Fax); Philip C. Evenson, Executive Director, Southeastern Wisconsin RPC, W239 N1812 Rockwood Dr., Box 1607, Waukesha, 53187-1607, Sewrpc@sewrpc.org, 262-547-6721; 262-547-1103 (Fax); Larry Ward, Executive Director, Southwestern Wisconsin RPC, 719 Pioneer Tower, One Univ. Plaza, Platteville, 53818, swwrpc@uwplatt.edu, 608-342-1214; 608-342-1220 (Fax); Jerry Chasteen, Director, West Central Wisconsin RPC, 800 Wisconsin Street, Building D2-401, Mail Box 9, Eau Claire, 54703-3606, 715-836-2918, Fax: 715-836-2886, jerry@wcwrpc.org; and Joe Salitros, Administrator, City of Delavan, P.O. Box 465, 123 South Second Street, Delavan, Wisconsin, 262-728-4566.

4. **Contacts:** Project Director: Darsi Foss, Chief, Brownfields and Outreach Section, 101 South Webster Street (RR/3), Madison, Wisconsin, 53707. Darsi.Foss@Wisconsin.gov. Phone: (608) 267-6713. Fax: (608) 267-7646. Chief Executive: Scott E. Hassett, Secretary, Wisconsin Department of Natural Resources. 101 S. Webster Street, PO Box 7921, Madison, Wisconsin, 53707-7921. Scott.Hassett@Wisconsin.gov. Phone: 608-266-2621; 608-261-4380 (Fax); 608-267-3579 (TTY) 711.
5. **Date Submitted:** Submitted on December 8, 2006, through Grants.gov.
6. **Project Period:** From October 2007 through September 2012.
7. **Population:** 5,363,675 in the State of Wisconsin.
8. **Special Considerations:** The State of Wisconsin's special consideration areas include:
- A Renewal Community;
 - 11 federally recognized Indian tribes, including one Rural Enterprise Community;
 - 3rd largest Hmong population in the nation, doubling in size over last ten years;
 - 22 State-designated Community Development Zones ;
 - Specific environmental justice areas, due to economic and cultural challenges;
 - Home to 5 of the 43 International Great Lakes Areas of Concern; and
 - Wisconsin only has 3 communities with a population over 100,000; the largest city in Wisconsin is Milwaukee, at 596,974.
8. **Cooperative Partners:** The WBC's cooperative partners include: 16th St. Community Health Center, Peter McAvoy, 414-672-1315, ext. 154; Wisconsin Brownfields Study Group, Bruce Keyes, 414-297-5815; Wisconsin Towns Association, Richard Stadelman, 715-526-3157; Wisconsin Alliance of Cities, Richard Eggleston, 608-257-5881; and League of Wisconsin Municipalities, Dan Thompson, 608-267-2380; Wisconsin Counties Association; Contact: Mark O'Connell, 608-663-7188. Letters of support can be found in Attachment I and J.

The WBC's strategy of making these funds available on a statewide basis will also maximize our ability to quickly obligate the funds to eligible projects. Not only are there 8,000 potentially eligible properties, but Wisconsin's Site Assessment grant program for local governments has a list of 259 assessment projects where these funds could immediately be put to use, with a near-record number of state assessment grants requested in November 2006. The WBC hopes that EPA agrees that Wisconsin's "Ready for Reuse" initiative is a project well worth EPA's commitment to continue investing resources in. Thank you in advance for your consideration of the WBC's grant application.

Sincerely,


Scott Hassett, Secretary

Attachments C, G, H, I & J
cc: US EPA Region V Brownfields

Threshold Criteria

- A. Applicant Eligibility.** The Wisconsin Brownfields Coalition (WBC) consists of the Departments of Administration (DOA), Commerce, and Natural Resources (WDNR). The state legislature created the DOA in 1959, WDNR in 1967, and Commerce in 1971. Since 1995, the state members of the WBC have a signed, brownfields memorandum of agreement. The City of Delavan is also a member of the WBC. Seven of the 8 Regional Planning Commissions are members, and the eligibility documentation for the the RPCs can be found in Attachment C. Letters documenting membership in the WBC can be found in Attachment I.
- B. Jurisdiction.** The state of Wisconsin is the jurisdiction for the RLF funds.
- C. Letter from the State or Tribal Environmental Authority.** Not applicable.
- D. Cleanup Authority and Oversight Structure.** The WBC will rely on the WDNR's voluntary response clean-up program (i.e., the Remediation and Redevelopment program) to ensure appropriate state oversight of cleanups, in compliance with the ch. NR 700 comprehensive cleanup rule. The WBC will ensure funding information and agreements clearly specify that the loan or grant recipient's site investigation report, remedial action plan, community involvement plan, construction plan, development plans, and no further action report (closure submittal) - at a minimum - require WDNR approval. Further, the WDNR has legal authority to access and secure sites in the event of an emergency or default of a loan agreement or non-performance under a sub grant. The legal opinion documenting this authority is found in Attachment G.
- E. Cost Share.** The WBC's cost share of 20%, or \$600,000, will be met by requiring the loan or sub grant recipient to provide a cost share related to eligible and allowable expenses. This will be accomplished by: (1) pairing the awards of RLF funds with the following state brownfield funds: Green Space and Public Facility Grants - \$500,000 per year; and Commerce's Brownfields grants - \$7M per year; (2) requiring the recipient provide a match of 20% in money, labor, material or services if no state dollars are being leveraged as cost share; or (3) a combination of 1 and 2. The WDNR will ensure that the cost share meets EPA's definition of "eligible and allowable expense."
- F. Legal Authority to Manage a Revolving Loan Fund.** All state WBC members have legal authority to manage revolving loan funds. The WDNR, as the recipient of the cooperative agreement, has attached the necessary legal opinion (Attachment H) that confirms its ability to hold funds, make loans, enter in loan agreements, and collect repayments. In April of 2004, Wisconsin passed into law s. 292.72, Wis. Stats., which created the brownfields revolving loan fund program. This law provides WDNR with the ability to receive and hold moneys, make loans, enter into loan agreements, and collect repayments with these federal funds. The WBC state members have extensive experience managing both grants and loans, especially related to brownfields. As previously mentioned, over \$9M in state brownfields-related grants are awarded by the 3 state agencies on an annual basis. As of early 2000, the clean water fund (jointly administered by DOA and WDNR) had entered into loan agreements with municipalities totaling \$1.7 billion. This experience should assist the WBC in successfully administering the RLF.

Ranking Criteria for RLF Grants

A. RLF Grant Proposal Budget.

The WBC proposes to continue the operation of an RLF with \$3M available for hazardous substance cleanups. The WBC's proposal would provide \$2.95 million in cleanup funds to local governments and tribes to competitively bid for contractual services from environmental consultants. The WBC proposes to provide 60% of the funds to local governments and tribes in the form of revolving loans, with the remaining 40% of the funds to be sub-granted. The cost share for the RLF funds is 20% or \$600,000, and will be provided by the recipient. Limits on sub-grants will be limited, per federal law, to \$200,000 per site. In addition, the WDNR will use \$50,000 (i.e., the remaining non-contractual funds) to operate and market the RLF. Activities would include meeting with communities, updating RLF materials and the RLF web site, and creating success story publications. The WDNR will use non-RLF funds to involve the community and oversee the cleanups. As this is an established program, no funds are needed to establish the RLF. The WBC budget proposes to allocate the funds between operational, marketing and contractual costs, as proposed below.

LOANS: Project Tasks for \$1,800,000 in Loans - Hazardous Substance

BUDGET CATEGORY	ESTABLISH RLF	OPERATE RLF	MARKET RLF	CLEANUP LOAN AMOUNT	INVOLVE COMMUNITY	OVERSEE CLEANUP
Loans (Contractual)				\$1,770,000		
Personnel		17,501				
Travel		1,200				
Supplies		200	400			
Fringe Benefits		7,806				
Indirect		2,893				
Cost Share	\$360,000 in cash, labor, & materials provided by loan recipients					
Total		29,600	400	1,770,000		

GRANTS: Project Tasks for \$1,200,000 in Sub Grants - Hazardous Substance

BUDGET CATEGORY	ESTABLISH RLF	OPERATE RLF	MARKET RLF	CLEANUP LOAN AMOUNT	INVOLVE COMMUNITY	OVERSEE CLEANUP
Loans (Contractual)				1,180,000		
Personnel		11,668				
Travel		800				
Supplies		100	300			
Fringe Benefits		5,204				
Indirect		1,928				
Cost Share	\$240,000 in cash, labor, & materials provided by sub grant recipients					
Total		19,700	300	1,180,000		

B. Community Need

1. Target Communities. The State of Wisconsin - the target community - is comprised of several urban areas, but is predominately rural in nature. Wisconsin only has 3 cities whose population exceeds 100,000. In 2001, Wisconsin was rated as the 10th highest state for manufacturing employment. Wisconsin's total population is 5.4M, according to

the U.S. Census Bureau 2000 data. Of the total population, 6% are African American or Black, 1.3% American Indian and Alaska Native, 2% Asian, and 2% other race. Wisconsin has the third largest population of Hmong in the U.S. Further, Wisconsin is home to 11 federally recognized Indian tribes, including one Rural Enterprise Community. Of all Wisconsin families, approximately 12.2% of the state's families with related children under 5 years of age live in poverty. Approximately 42.5% of the families headed by females-only are below the poverty level. Wisconsin's unemployment rate for October 2006 was 4.7%, compared to the national unemployment rate is 4.4% (US Department of Labor). Wisconsin also has 22 designated Community Development Zones, and one Renewal Community designation.

Target communities include rural and urban areas, where manufacturing was historically prevalent. Wisconsin has a history of being home to many small manufacturing businesses, many of which no longer exist in small towns across this rural state. However, the state's urban areas - such as Kenosha, Racine, Milwaukee and the Green Bay-Appleton area - are also in need of funds due to the closing of many manufacturing businesses. In the 2006 Development Report Card for the States compiled annually by the Corporation for Enterprise Development gave Wisconsin a "D" grade for: (1) short-and-long-term employment growth; (2) unemployment rate; and (3) mass layoffs (Wisconsin is ranked 4th). As summarized in Wisconsin's WIA State Plan (2005-07), "Wisconsin is in the process of recovering from one of the worst economic recessions since the mid 1980s, having lost 80,000 manufacturing jobs since 2000." The RLF funds, if provided, will help these impacted communities to secure the needed funds to clean up and reuse these former manufacturing properties for new economic development and community purposes. While the state's economy is improving, there is an entire legacy of properties that are left for the state to deal with, and Wisconsin's \$1.6 billion budget deficit will hamper the efforts to address the state's estimated 8,000 brownfields.

The WBC will continue to target these funds for use by local governments and tribes¹ to "jump start" brownfields projects that would not otherwise receive any, or sufficient, state cleanup funds. The WBC will dedicate a portion of the funds to green space or other public use projects. The remaining funds would be used as a catalyst for private investment in a project. The WBC would like to target areas that address multiple contaminated properties, but will also fund single sites for cleanup. The WBC will strive to achieve a balance of the types of sites it funds (e.g., dry cleaners, gas stations, manufacturers, etc.), with particular interest in the following types of projects: (1) in neighborhoods or communities that are economically distressed due to plant closings, layoffs, or poverty or unemployment levels being above the state average; (2) along

¹ Section 20.002(13), Wis. Stats., states: "Notwithstanding any statute to the contrary, wherever any law authorizes a grant of state funds to be made by a state agency to any county, city, village or town for any purpose, funds may also be granted by that state agency to any federally recognized tribal governing body for the same purpose. The grants are subject to the same conditions and restrictions as apply to grants to counties and municipalities, if any. This subsection shall not be construed to require any grant of state funds to be made to any federally recognized tribal governing body."

waterfronts that result in economic benefits, ecosystem protections, access to recreational areas, or a combination of these; (3) those that strike a balance between urban and rural projects; and (4) that promote the use of innovative clean up techniques, sustainable development practices, and integration of brownfields and smart growth planning.

2. Community Benefit: Economics, Health, and Environment. The WBC will continue to fund brownfields clean-up projects in economically challenged neighborhoods, where there have been mass layoffs, environmental justice issues are present, and higher-than-state-average unemployment or poverty rates exists. Funds will be targeted at projects ready for reuse, particularly those that promote living-wage jobs for the most-needy populations. While the WBC received \$4 million in 2004, these funds - as projected - have helped to start clean ups at only a small percentage of all brownfields properties. In addition, almost all of our state's brownfields financial assistance programs are oversubscribed. The Department of Commerce only funds 50% of brownfields applications submitted and of those, the average award is only 30% of the funds requested. The WDNR's assessment grant program continues to move properties into the clean-up pipeline by providing funds for assessments, demolition and investigations. Like Commerce, it only funds about 50% of the funds requested and in November 2006, received a near-record number of assessment grant requests. To date, there have been over 300 assessment grants awarded. The state's dry cleaning fund is oversubscribed as well. The RLF funds, if awarded, will assist in closing these large funding gaps.

The RLF moneys will result in the clean up of at least an additional 8 to 15 brownfields properties that would otherwise not reach this protective level in the next 2 to 5 years. This will reduce the number of exposures to cancer and non-cancerous contaminants through inhalation and direct contact risks. In addition, it will also reduce the contaminant loading to the air, surface water and groundwater. In Wisconsin, over 75% of the population relies on groundwater for their drinking water. There are more than 750,000 private wells in this state, in addition to the hundreds of potable wells serving municipal residents. The use of these cleanup funds along waterways, including the Great Lakes, will reduce or halt contaminant loading, which impacts our native fish population. Many indigenous and immigrant peoples (e.g., Hmong community), as well as recreational anglers, consume fish from these impacted or threatened waterways. Wisconsin ranks third in the nation for total water surface per square mile of land. Our industrial legacy has left 49 surface waters with polychlorinated biphenyls (PCB) advisories for fish and there is a statewide mercury fishing advisory. The RLF funds will halt or significantly decrease contaminants from entering these resources, and lead to their restoration.

3. Impact of Brownfield Properties on Wisconsin Communities. Wisconsin communities need funds to deal with 7,600 properties with known contamination, an estimated 2,400 yet-to-be-discovered brownfields. Also, there are 17,000 properties where the "known" contamination has been removed to the satisfaction of the state. Many of those properties will require additional environmental action, because it is likely other

"unknown" conditions will be discovered. Also, the state is notified of 500 new sites a year needing clean up. These properties pose a potential threat to the public, as well as the air, land and waters of the state.

The WBC is seeking to continue its "Ready for Reuse" initiative, as a reflection of the critical need for clean-up dollars to move Wisconsin's estimated 8,000 brownfields properties to the redevelopment stage. Wisconsin's economy has improved in the last two years; however, there are several less-than-favorable factors that are of concern to those who understand the economic factors that drive brownfields redevelopment. In 2006, the Corporation for Enterprise Development (CED) issued their annual report card concerning development opportunity in the 50 states. Wisconsin received decent grades for "business vitality", "performance", and "development capacity." However, there are two economic grades that are of concern: (1) Wisconsin received a "D" in "entrepreneurial energy" (e.g., job creation by start ups, proportion of employment by the tech industry), leaving Wisconsin ranked 47th in the nation in "new company formation"; and (2) Wisconsin received a "D" in employment, due to the number of layoffs and mass plant closings. Further, the State ranked 44th (i.e. 6th worst) in conversion of cropland to other uses.

The receipt of these funds will ensure that more contaminated properties in Wisconsin will be cleaned up in the next 2 to 5 years, thus halting public health exposures and preventing further environmental degradation. As previously mentioned, 75% of Wisconsin residents rely on groundwater as their primary source of drinking water. This is reflected in the fact that there are still 750,000 private wells in this state, as well as hundreds of municipal wells, which are vulnerable to contamination migrating from uncontrolled brownfield properties. Contaminants from brownfields and other sources impact our waterways, and unfortunately, find their way into our food system. In Wisconsin, 49 waters carry polychlorinated biphenyls (PCB) advisories for fish. Also, there is a statewide mercury advisory, because that contaminant is found in almost all waters throughout the state. Cleaning up these uncontrolled brownfields properties will reduce the current exposures to public health and reduce the migration of those chemicals into our waters, air and soil.

C. Business Plan for RLF Program.

1. RLF Structure. The WBC's RLF portfolio consists of \$3M in funds, that will be provided to local governments and tribes at a 0% interest rate. RLF eligible activities must be completed in 5 years, with a maximum 20-year repayment period. The WDNR will work with each loan recipient to determine the appropriate repayment schedule, recognizing the available revenue sources for the community. It is the WBC's preference that the funds be repaid as soon as financially possible, to ensure that they can be provided to other needy projects. Wisconsin has specific state laws governing municipal borrowing, which will set the conditions of the loan obligation. The WBC has elected to provide these funds to local governments, given the safeguards built into the state borrowing laws. If the local government or tribe sells the property during the loan period, proceeds from the sale of the property will be used to pay off the loan.

It is the WBC's plan to loan or sub grant these funds in a 2-year time frame. The WBC's goal would be to solicit applications for eligible projects as soon as receiving the funds, due to already established administrative infrastructure for this program. If new loan funds are awarded to the WBC in 2007, the WBC anticipates repayments starting in 2008 for some projects. Sub-grants will likely occur in communities that are more rural in nature or are economically distressed. While more urbanized areas can rely on tax incremental financing (TIF) districts to assist in repayment of RLF funds, rural brownfields or public use projects generally don't have the property "value" needed to make a TIF work. Additionally, the WBC believes that the amount of money these sub-grants will leverage (an estimated \$7 in investment for each federal grant dollar), makes sacrificing the long-term availability of 40% of the funds worth the trade off.

Wisconsin has been nationally recognized for the variety of financial assistance tools that are available to assist in the assessment, clean up and reuse of contaminated properties. Wisconsin agencies provide almost \$9 million annually in grants to assist in the assessment and clean up of brownfields. Wisconsin has a number of tax incentives, including: (1) remediation tax credits; (2) tax forgiveness provisions; (3) and is one of the national leaders in the issuance of federal tax deduction approvals. Wisconsin has streamlined its tax incremental financing laws to assist with urban renewal, including the creation of a TIF solely for brownfields. The state's petroleum clean up fund provides limited dollars to assist in the clean up of leaking underground storage tanks. In addition, the state has a dry cleaner response fund to assist with the costs of cleaning up these historic sites. These are some of the complimentary products Wisconsin offers.

2. Target Market. The WBC will continue to target these funds for use by local governments and tribes to "jump start" brownfields projects that would not otherwise receive any, or sufficient, state cleanup funds. The WBC will dedicate a portion of the funds to green space or other public use projects. The remaining funds would be used as a catalyst for private investment in a project. The WBC would like to target areas that address multiple contaminated properties, but will also fund single sites for cleanup. The WBC will strive to achieve a balance of the types of sites (dry cleaners, gas stations, manufacturers, etc.) it funds, with particular interest in the following: (1) projects in neighborhoods or communities that are economically distressed due to plant closings, layoffs, or poverty or unemployment levels being above the state average; (2) brownfields projects along waterfronts that result in economic benefits, ecosystem protections, access to recreational areas, or a combination of these; (3) striking a balance between urban and rural projects, with a fair balance of projects funded across the state; and (4) promoting the use of innovative clean up techniques, sustainable development practices, and integration of brownfields and smart growth planning.

The WBC plans to award RLF sub grants for green space and non-green space projects, and will utilize EPA's criteria in awarding those grants. For green space-public use projects, the WBC will also use WDNR's green space grant criteria to assist in project selection. WDNR's scoring criteria includes such factors as: (1) economic hardship and distress in the neighborhood/community; (2) community support and

partnerships; and (3) public benefit and demonstrated need. As previously mentioned, sub grants will be targeted at public or private projects where repayment of a loan would be an economic challenge. Sub grants will likely occur in communities that are more rural in nature or are economically distressed. While more urbanized areas can rely on TIF districts to assist in repayment of RLF funds, rural brownfields or public use projects generally don't have the property "value" needed to make a TIF work. Additionally, the WBC believes that the amount of money these sub grants will leverage (an estimated \$7 in investment for each federal grant dollar), makes sacrificing the long-term availability of 40% of the funds worth the trade off. The WBC plans to utilize the RLF where it can maximize existing infrastructure, such as roads, utilities and public transportation is available.

Since 2000, Wisconsin has lost 80,000 manufacturing jobs, and has one of the highest plant closing rates in the nation. As such, the WBC's target market includes rural and urban areas, where manufacturing was prevalent. Wisconsin has a history of being home to many small manufacturing businesses, many of which no longer exist in small towns across this rural state. These small, rural communities do not have the discretionary funds available to address the state's industrial legacy. Further, the state's urban areas - such as Kenosha, Racine, Milwaukee and the Green Bay-Appleton area - are also in need of funds due to the closing of many manufacturing businesses. These funds are even more critical, given the recent news that Wisconsin is facing a \$1.6 billion budget deficit for the upcoming biennium.

In particular, the WBC hopes to use some of these clean-up funds on projects in the 30th Street Industrial Corridor, which is the target of the WDNR's 2005 assessment grants from US EPA. The area within a one-mile radius of the approximately five-mile long 30th Street Industrial Corridor has a population of 31,918, with the following demographics (2000 US Census data): 95% of the residents are considered "minority"; approximately 11,838 children under the age of 18 (or 37% of residents) live within this area; about 18.5% percent of the labor force was not employed in 2000; the area's median household income (\$19,467) was less than half of the state's median income; and 34.9 percent of the residents lived below the poverty level, well above the City's rate of 21 percent and the state's average rate of 9 percent. The RLF funds, if provided, will help these impacted communities to secure the needed funds to clean up and reuse these properties for new economic development and community purposes.

3. Project or Site Selection. The WBC has an RLF program up and running that addresses the process and criteria for selecting projects, borrowers and sub grantees. The WBC has developed a 2-part application process that includes the US EPA project manager as a member of the review and selection team. The first part of the application addresses EPA's eligibility criteria. The second part of the application addresses the ranking criteria, including the creation of greenspace; community's inability to draw on additional funds; facilitate the reuse of infrastructure; and promotion of long-term availability of loan funds. These factors will go into the selection of sub grants, and will be documented to EPA's satisfaction prior to the issuance of a sub grant by the WBC. The WBC has developed an excellent working relationship with its EPA Region V

project manager, and includes that person in grant development, selection and administration processes.

4. Management and Operational Team. Darsi Foss, Chief of the Brownfields and Outreach Section in the Bureau for Remediation and Redevelopment at the WDNR, will be the Program Coordinator for this grant. Ms. Foss has worked in Wisconsin's brownfields program since it was established, in 1994. She has been in the environmental clean-up field since 1985, when she started her career at the US EPA. She has administered EPA program cooperative agreements since 1996. Jessica Milz, the WDNR brownfields marketing specialist is the fund manager for the RLF. Ms. Milz has 50% of her efforts dedicated to the day-to-day management of the RLF. She has 7 years experience with natural resources and community development programs. Shelley Fox, our state grant manager has 10 years of fiscal experience, and will dedicate her efforts to tracking funds and ensuring the state's and EPA's financial regulations are adhered to. The WDNR's excellent technical staff will be involved with the oversight of the clean up projects.

D. Sustainable Reuse of Brownfields

1. Pollution Prevention/Resource Reduction. The WDNR acts to prevent the creation of future brownfields through several approaches. One approach is ongoing inspection, education and enforcement. In addition, WDNR has several programs aimed at providing cooperative assistance to businesses to address their environmental compliance issues. These include business sector specialists who work with small companies in 20 different business sectors (paper production, dry cleaning, etc.) on compliance and environmental improvements. Also, we are encouraging the use of environmental management systems (ISO 14000) to prevent use and disposal of hazardous substances. Wisconsin has one of the first "Green Tier" laws in the nation promoting "beyond environmental compliance" programs. Additionally, WDNR also has authority require someone to develop and implement a spill prevention plan to prevent the creation of new brownfield sites.

For all brownfields projects, environmental best practices and sustainable development activities are promoted. When a community approaches the state for assistance with a brownfield project, a "green team" of state experts are brought together to meet with the community leaders and potential developers, if available, to discuss financial incentives and programs that could assist with the project. Typically staff from various WDNR programs, as well as the state departments of Commerce, Revenue, Administration, and Transportation, are involved. Best practices used at other brownfields projects will be shared with the community, tribe or developer. In addition, sustainable development practices, such as green building and unique storm water runoff are shared as well.

In addition, these state resources are available to promote sustainability and best practices: the Wisconsin "Focus on Energy" program, promoting combined heat and power and on-site energy production on brownfields redevelopment sites; DOA's Coastal Management Program, providing grants for coastal land acquisition and other activities that protect Wisconsin's coastal resources, and increase public access to the

Great Lakes; WDNR's Bureau of Cooperative Environmental Assistance, providing pollution prevention assistance and promoting innovative environmental regulatory methods; WDNR's Waste Reduction & Recycling Grants and Waste Cap Wisconsin, Inc., a statewide, industry-supported nonprofit are used to minimize waste generation and maximize recycling of materials at brownfields projects.; DOT, which provides grants and loans for trails, bike paths and other alternate forms of transportation.

The reuse of existing infrastructure is one of the compelling reasons why federal, state and local governments are willing to commit public funds to these projects. Wisconsin has a tradition of working with local governments to identify projects that will maximize use of existing roadways, bus transportation, utility services, neighborhood centers and use of waterfront transportation modes. The WBC will team with the Wisconsin DOT, as the state has done in the past, to identify projects which DOT'S Transportation Economic Assistance (TEA) grants could assist. These funds can be leveraged at a brownfields to assist with rail, road, harbor or airport work. In addition, DOT has used its TEA-21 (21st Century) funds to preserve historic sites (e.g., depots), pedestrian and bicycle facilities and paths, and preserving abandoned rail corridors. Kenosha's Harbor Park brownfields project on Lake Michigan is a prime example of reusing existing infrastructure, by connecting a trolley system with the main commuter train to the Chicago metro area.

2. Economic Development. The WBC will continue to fund brownfields cleanup projects in economically challenged neighborhoods, where there have been mass layoffs, environmental justice issues are present, and higher-than-state-average unemployment or poverty rates. Funds will be targeted at projects ready for reuse, particularly those that promote living-wage jobs for the most-needy populations. While the WBC received \$4 million in 2004, these funds - as projected - have helped to start clean ups at a small percentage of properties. In addition, many of our state's brownfields financial assistance programs are oversubscribed. With the state budget deficit estimated at \$1.6 billion, these funds are critical to the state's efforts to revitalize those properties that are a remnant of Wisconsin's manufacturing legacy.

The Department of Commerce only funds 50% of the brownfields applications submitted and of those, the average award is only 30% of the funds requested. The WDNR's site assessment grant continues to move properties into the clean-up pipeline by providing funds for assessments, demolition and investigations. Like Commerce, it only funds about 50% of the funds requested and in November 2006, received a record number of assessment grant requests. To date, there have been over 300 state assessment grants awarded. In addition, the WDNR just finished awarding another round of green space and public facility grants, to enhance our urban areas by providing recreational fields, butterfly gardens, and walking paths. The state's dry cleaning fund is a popular, but oversubscribed program. The RLF funds, if awarded, will assist in closing these large funding gaps by funding an additional 8 to 15 brownfields properties that would otherwise not reach this protective level in the next 2 to 5 years. The state estimates that for every dollar it invests, it leverages \$7 of additional public and private investment.

Despite Wisconsin's limited resources and struggling economy, the WDNR and Commerce have been able to assist 150 brownfields projects since 1988, creating an estimated 5,800 new, full-time jobs, increasing the taxable property value by \$210 million and reclaiming 1,350 acres of brownfields properties. In addition, WDNR has awarded \$9.9 million state grant dollars to 259 brownfields site assessment projects, totaling more than 900 acres. The state has done this in urban and rural communities. To illustrate the widespread nature of brownfields in Wisconsin, in the spring of 2006, WDNR awarded nearly half of its grants to "rural" communities or counties, with approximately one third of the grants going to communities with populations of less than 5,000.

3. Promote Vibrant, Healthy Communities. All local governments across the state are developing smart growth comprehensive plans. These land use plans include the communities' redevelopment priorities and economic development activities for their brownfield properties. The awarding of RLF moneys will take into consideration whether the brownfield project is part of a comprehensive plan. The WBC initiative is a means to create a bridge between the state's "Grow Wisconsin" economic plan and smart growth planning. The goal would be to create new business opportunities and public places, consistent with the "smart growth" plans of Wisconsin communities. The WBC also sets aside part of its funds for "public" projects involving green space, public facilities and housing. These projects will help to create more vibrant, equitable and healthy communities. Generally, these are projects in highly urban areas where existing transportation and utility corridors are used to service the project. For example, one of the first RLF sub grants awarded by the WBC was to a green space project in the Village of Waunakee that connected its trail system along Six-mile creek. In addition, the WDNR is working with the City of Milwaukee in the 30th Street industrial corridor, and adjacent neighborhoods, to determine if existing parks need any environmental assistance. The WDNR, with its green space and public facility grant program, has the experience in marketing and overseeing funds to promote the creation or expansion of trails, building of public markets, soccer fields and other public projects.

E. Creation/Preservation of Greenspace/Open Space or Other Nonprofit Purpose.

A portion of the RLF moneys will be targeted for the cleanup of properties where the future use is for green space or public use. Wisconsin has one of the only state programs in the nation with money specifically dedicated to cleanup of brownfields for green space or public use, such as parks, recreational areas or libraries. RLF moneys may assist projects that need additional clean-up funds or were not funded by this state program. Cleanup projects submitted to WDNR include remediation of properties that will be used for: a neighborhood park, a farmers market in a mixed income urban neighborhood, and soccer fields. The WDNR uses deed restrictions and conservation easements to ensure that land remains in the public domain. If land use controls are needed, including maintenance, Wisconsin has specific state law, s. 292.12, Wis. Stats., which requires such long-term stewardship of the property. The WDNR has experience in marketing and administering public funds for these green space projects.

F. Pre-Award Community Notification.

1. Notification to Targeted Communities. The Wisconsin brownfields community was notified of the WBC's proposed plans to apply for \$3 million by the following means: Meeting with and support from the Regional Planning Commissions - 8/17/2006; Discussion with and support from the WI Brownfields Study Group - 11/2/2006; Public notice of draft grant application and copy of draft application made available to public on WDNR's web page - 11/13/06; Press release and invitation to comment on the draft to 500 media outlets - 11/14/06; Direct email invitation to comment on application to 700 people - 11/15/06; Email invitation to comment to Wisconsin Brownfields Study Group - 11/20/06; Legal notice and invitation to comment placed in 22 state newspapers - 11/22/06; Email invitation to comment to Wisconsin Counties Association, League of Municipalities, Towns Association and Alliance of Cities - 11/22/06; and Public comments were encouraged via email or in written form.
2. Selection of Notification Methods. The WBC chose statewide notification as most appropriate to its efforts to expand our RLF, given our focus on both rural and urban brownfields. The extensive notification methods listed above ensured that persons interested in brownfields were aware of our success in marketing our existing RLF, the demand on RLF funds and our efforts to obtain additional funds.
3. Length of Public Comment: The public comment period on the draft application ran for three weeks, from November 13 to December 1, 2006. The types of outreach performed are listed above.
4. Response to Comments: The WBC will prepare a response to all comments received, inform the commenter how their comments were addressed, and post our responses to public comments on the WDNR Internet.

G. Ongoing Community Involvement.

1. Plans for Community Involvement. Wisconsin's has a strong, progressive tradition of public involvement. For the RLF fund, the federal public notification requirements and the state requirements in ch. NR 714, Wis. Admin. Code, entitled "Public Information and Participation" will be followed. At a minimum, RLF loan and sub grant recipients will need to: (1) notify the public of the availability of funds (i.e., pass a municipal resolution at a public-noticed municipal meeting open to the public); (2) post public notice signs of contamination at the property per s. NR 714.07(3); (3) create an administrative record; and (4) provide the opportunity for public comment and a meeting on the cleanup plan. Recipients will be encouraged to maintain either a web site documenting progress at the property or a publicly accessible paper file, with language(s) indigenous to the community. The WDNR has created model documents to help our recipients meet these requirements. In addition, the WDNR plans to use part of the RLF funds to maintain both a programmatic and site-specific web site.
2. Development of Partnerships. Wisconsin's brownfields initiative has a strong tradition of building and maintaining partnerships with local governments, tribes, other state agencies non-profits and other brownfields practitioners. The WBC partners included the 7 regional planning commissions, the Wisconsin Department of Commerce and the Wisconsin Department of Administration. Other partners who support our application are listed below in section 4. The state's excellent working relationship with the Wisconsin Brownfields Study Group, a citizen board established in 1998, is a prime example of our strong and successful partnerships. On a state-wide level, we will continue to work with our traditional partners to develop, market and implement the

RLF, including such activities as: (a) soliciting feedback from WBC members and Brownfields Study Group on development of our Wisconsin RLF; (b) continuing dialogue with the Regional Planning Commissions, governmental associations including the WI Alliance of Cities, League of Municipalities, Counties Association and Towns Association, and tribes to help establish criteria for awarding grants and loans; and (c) continuing to market the program with help from these partners. In addition, on the local level, WDNR is a member of many community groups such as the Menomonee Valley Partners non-profit group created to clean up and revitalize a former industrial corridor on Milwaukee's Menomonee River

3. Communicating Progress. The following tools will be used to communicate progress in developing and implementing our RLF: (a) a web page devoted to Wisconsin's RLF, with programmatic and site-specific information; (b) regular articles in our electronic newsletters, *RR Report* and *ReNews*; (c) directing communication with our partners and community-based organizations listed below; (d) providing a status report on development and implementation of the WI RLF; (e) continued meetings with the WI Brownfields Study Group; (f) site-specific "success stories" on the Internet highlighting benefits of the RLF and (g) developing articles for the Alliance of Cities, League of Municipalities, Counties Association and Towns Association to insert into newsletters to their members. The WBC members will also work with RLF recipients to identify special communication needs, especially to ensure that the affected public can be reached in their indigenous language. We plan to use resources for communicating in indigenous languages through local non-profit groups, colleges, and other parties with those skills. Site-specific materials will be prepared in languages indigenous to the affected public.

4. List of Community-Based Organization Participation: Partners include: 16th St. Community Health Center, Peter McAvoy, 414-672-1315, ext. 154. the 16th St. Community Health Center is a non-profit, innovative primary health care organization, providing services to Milwaukee's near south side residents; The Wisconsin Brownfields Study Group, Bruce Keyes, 414-297-5815, the Brownfields Study Group is a non-partisan advisory task force created in 1998 that includes environmental advocates, attorneys, local elected and appointed officials, and non-profit and academic interests; Wisconsin Towns Association, Richard Stadelman, 715-526-3157, the Towns Association is a non-profit, non-partisan statewide organization created to protect the interests of the state's 1,264 towns; The Wisconsin Alliance of Cities, Richard Eggleston, 608-257-5881, is a non-profit organization representing 38 of the largest municipalities in the state; The League of Wisconsin Municipalities, Dan Thompson, 608-267-2380, acts as an information clearinghouse and legal resource for 386 villages and all of the 190 cities in the state; The Wisconsin Counties Association, Mark O'Connell, 608-663-7188, the Counties Association serves and represents Wisconsin's 72 counties.

H. Reduction of Threats to Human Health and the Environment

1. Reduction of Threats. The receipt of these funds will guarantee that more contaminated properties in Wisconsin will be cleaned up in the next 5 years, thus halting public health exposures and preventing further environmental degradation. Seventy-five percent of Wisconsin residents rely on groundwater as their primary source of drinking water. This is reflected in the fact that there are still more than 750,000 private

wells in this state, as well as hundreds of municipal wells, which are vulnerable to contamination migrating from uncontrolled brownfield properties. Lead in soils, contaminants in drinking and surface waters, and air pollution are all exposures that have negative impacts on public health, especially children, the elderly and pregnant women. Contaminants from brownfields and other sources impact our waterways, and unfortunately, find their way into our food system. In Wisconsin, polychlorinated biphenyls (PCBs) and mercury contaminate a large number of recreational fishing areas. PCB contamination is most often associated with industrialized river systems and the Great Lakes. The statewide mercury advisory is found in almost all waters throughout the state. Cleaning up these uncontrolled brownfields properties will reduce the current exposures to public health and reduce the migration of those chemicals into our waters, air and soil.

In addition, urban areas like Milwaukee are not only challenged by the health issues associated with the concentration of brownfields in certain neighborhoods, but also other urban health issues. For example, in Milwaukee's 30th Street Industrial Corridor - home to over 200 known brownfields sites - child lead poisoning is another public health threat. Statistics show that in 1998, 19.5% of the children tested in Milwaukee had blood lead levels equal to or above 10 µg/dL (micrograms per deciliter), the lead poisoning threshold. This is about 5 times the national average of 4%. Blood lead data collected by the Wisconsin Division of Public Health also show that neighborhoods along the 30th Street Corridor have the State's highest concentration of lead poisoned children. Residents of these neighborhoods also have elevated rates of hospital visits to treat asthma. These higher rates of asthma are greatly affected by poor living conditions and indoor air quality often found in the old housing stock of the 30th Street area. These sub-standard health conditions and unacceptable exposures are present in a neighborhood that has the fewest resources available (i.e., access to health care and insurance, as well as living wage jobs) to deal with such known and unknown health concerns.

2. Public Health Partnerships. The WBC will work with local and state public health officials to ensure that clean-up and redevelopment activities are protective of public health and the environment. WDNR has an excellent working relationship with Wisconsin Department of Health and Family Services (DHFS), Division of Public Health's staff. DHFS staff provides a number of environmental health services, including: (1) on-site and written, site-specific health "consultations" on exposure conditions at contaminated sites and those undergoing remediation; (2) consultation with state agencies and local officials on chemical-specific (e.g., lead and arsenic) or exposure pathway (e.g. vapor intrusion) risks and how they impact cleanup and redevelopment options; and (3) presence at public meetings to answer questions from public on health impacts. The WDNR will provide the technical expertise on ensuring that the investigation, clean-up and redevelopment meet all applicable public health and environmental laws, through oversight provided by the Remediation and Redevelopment program. All sites receiving funds will be required to seek WDNR review and approval at specific milestones in the process, such as at the site investigation stage, remedial action plan stage and at completion of the remedial action.

WDNR's public involvement requirements, in addition to the federal requirements, will ensure that the public is adequately informed about and able to engage in the project.

J. Leveraging of Additional Resources

1. Funds and Staff Commitment. The WBC members will dedicate staff time, as in-kind services, to develop, implement, market and document the efforts to expeditiously grant and loan the \$3M in a two-year period. The state members will administer the RLF, with WDNR as the cooperative agreement recipient. Commerce would lend its expertise in economic development and revolving loans, while DOA would use its experience implementing the state's Coastal Management grants, Comprehensive Planning grants, and revolving loan programs. WDNR would contribute its technical cleanup expertise, as well as its financial experience with EPA grants and loans. The RPCs, including the tribal members, would provide the connection with the local governments and tribes, to target projects, market the program and assist member communities throughout the RLF process.

2. Other Funding Sources. The WBC's goal is to maximize the use of state funds to leverage additional public, federal, state, private and non-profit investment. The WBC will pair their state grants with the RLF moneys: \$3.4M for Assessment Grants (20% match required); \$1M for Green Space Grants (20-50% match required); and \$14M Commerce Brownfields Grants (20-50% match required). In addition, the state has the following tools to leverage additional investment: state tax credits; two kinds of TIF districts; \$750,000 in Coastal Management Grants; property tax cancellation tools; dry cleaner reimbursement funds; federal tax deduction approvals; and approximately \$5M in state block grant funds for brownfields. In addition, communities have been successful using federal block grant funds, economic development administration grants, and transportation grants to leverage additional investment. The WBC's current applicant includes projects with dry cleaning funds, Commerce grants, TIF funds, and WDNR assessment grants. As an example of the amount of funds that could be leveraged, the Commerce Brownfields Grants have leveraged \$14.50 for every state dollar awarded. The WBC estimates that it would be able to leverage \$7 for every RLF dollar, for a total estimate of \$21M.

J. Programmatic Capability/Management Structure.

1. Management Plan. The loan fund will be managed by the Remediation and Redevelopment program within WDNR to ensure it incorporates prudent lending practices. Loan and grant agreements will be awarded and tracked by staff that has 15 years of experience. Since 1996, WDNR has received and managed brownfields funds in the form of cooperative agreements. WDNR has a sound track record of effectively managing and spending its federal cooperative agreement funds. EPA funds have assisted the WDNR to leverage a significant amount of investment in brownfields. For example, EPA provides funds for brownfields staff, which in turn have assisted 150 brownfields projects since 1988, creating an estimated 5,800 new, full-time jobs, increasing the taxable property value by \$210 million and reclaiming 1,350 acres of brownfields properties. In addition, WDNR has awarded \$9.9 million state grant dollars to 259 brownfields site assessment projects, totaling more than 900 acres.

Since 1996, WDNR has been the recipient of brownfields funds through EPA cooperative agreements., and funds the following activities: (1) web pages development and maintenance for a site providing general information on remediation and redevelopment, with 30,000+ users in the last year; (2) a web-based public record of 18,000 contaminated sites where hazardous substances and petroleum have been reported to the WDNR; (3) inventory and survey of over 400 historic disposal sites; (4) a proactive contaminated site discovery of almost 500 sites; (5) geo-location of 5,600 contaminated properties and historic disposal sites; (6) annual cleanup of 400 sites; (7) annual audit of institutional controls at 40 sites; (8) a One Cleanup Program MOA between WDNR and EPA to clarify agency roles and responsibilities under three major federal cleanup laws, and (9) conduct over 70 meetings and/or presentations to brownfields audiences. WDNR's s. 128(a) cooperative agreement accomplishments reports can be found at http://www.WDNR.state.wi.us/org/aw/rr/cleanup/rr_success.htm.

2. History of Managing Federal Grants. The WDNR has extensive experience in the management of federal funds. OMB Circular A-133 Audit findings have been very positive. In particular, WDNR manages dozens of federal grants totaling tens of millions of dollars annually, and has managed this level of grants for over 30 years. The Remediation and Redevelopment (RR) program manages 15 federal grants, with an annual budget of over \$4 million for more than 15 years. One of the program's 15 EPA grants is the \$400,000 brownfields assessment cooperative agreement, for the 30th Street Industrial Corridor initiative. The Wisconsin Legislative Audit Bureau (LAB) conducts the OMB Circular A-133 single audit of WDNR at the end of each state fiscal year. LAB's most recent completed audit of WDNR for state fiscal years 2004 and 2005 did not contain any adverse findings. The WDNR has never been required to comply with any special "high risk" terms and conditions under agency regulations implementing OMB Circular A-102.

4. Brownfields Cooperative Agreement Recipient. WDNR, specifically the RR program, has received Superfund Core Brownfields grants from October 1994 through June 2005. WDNR has also received Superfund Site Assessment Brownfields grants from October 1998 through the present. WDNR received its first annual Section 128(a) State Response Program grant for September 2003 through August 2004. Recently that grant was amended to include funding through August 31, 2007. WDNR has consistently completed the following activities for each of these grants: (1) quarterly progress reports required per grant conditions; (2) semiannual progress reports required by WDNR's Environmental Performance Partnership Agreement (EnPPA) with EPA Region 5; (3) brownfields reporting measures required through grant conditions or the EnPPA; and (4) annual Financial Status Reports (FSRs) required per grant conditions, often submitting these on a more frequent quarterly basis.

5. Tracking and Measuring. The WBC will continue to follow the minimum requirements for reporting and tracking in the grant terms and conditions. In addition, the WDNR is updating its electronic, web-based BRRTs data base to track the RLF funds awarded to specific projects. In addition, the WDNR's RLF web page will have site specific information posted about each individual project.

Appendix C: Documentation of Applicant Eligibility - Wisconsin's Regional Planning Commissions

Members of Wisconsin's Brownfields Coalition **(INVITED)**

The Wisconsin Brownfields Coalition (WBC) members are the Wisconsin Departments of Administration (DOA), Commerce and Natural Resources (WDNR). The local government members are 7 or the 8 Wisconsin Regional Planning Commissions (RPC), including 5 tribal members of one RPC, covering 54 of the 72 counties in the state. In addition, the City of Delavan has joined the WBC.

The local government members of the WBC are the Wisconsin Regional Planning Commissions (RPCs), including 5 tribal members, established pursuant to s. 66.0309, Wis. Stats., that perform planning, coordination and outreach functions for 55 of Wisconsin's 72 counties:

- Bay-Lake Regional Planning Commission, created in 1972; Florence, Marinette, Oconto, Brown, Door, Kewaunee, Manitowoc, and Sheboygan counties.
- East Central Wisconsin Regional Planning Commission created in 1972; Calumet, Menominee, Outagamie, Shawano, Waupaca, Waushara, and Winnebago counties.
- North Central Regional Planning Commission, created in 1973; Adams, Forest, Langlade, Lincoln, Marathon, Oneida, Portage, Vilas, Wood, & Juneau.
- Northwest Regional Planning Commission, created in 1959; Ashland, Bayfield, Burnett, Douglas, Iron, Price, Rusk, Sawyer, Taylor, Washburn, and the Tribal Nations of Bad River, Lac Courte Oreilles, Lac Du Flambeau, Red Cliff & St. Croix.
- Southeastern Wisconsin Regional Planning Commission, created in 1960; Kenosha, Milwaukee, Ozaukee, Racine, Walworth, Washington, and Waukesha.
- Southwestern Wisconsin Regional Planning Commission, created in 1970; Grant, Green, Iowa, Lafayette, and Richland counties.
- West Central Regional Planning Commission, created in 1971; Barron, Chippewa, Eau Claire, Polk, St. Croix, Clark, and Dunn counties.

Chief Executives of WBC Members

Wisconsin Department of Natural Resources

Scott Hassett, Secretary
101 South Webster Street
Madison, WI 53707
ScQt.Hassett@wisconsin.gov
Phone: 608-266-2621 (Fax); 608-267-6897 (TTY).

Wisconsin Department of Administration

Michael Morgan, Secretary

101 East Wilson Street
Madison, WI. 53702
Michael.Morgan@Wisconsin.gov
Phone: 608-266-1741; 608-267-3842 (Fax).

Wisconsin Department of Commerce

Mary Burke, Secretary
201 West Washington Avenue
Madison, WI 53703
Mary.Burke@Wisconsin.gov

Phone: 608-266-7088; 608-266-3447
(Fax).

pevenson@sewrpc.org
<http://www.sewrpc.org/>

Bay-Lake RPC

Mark Walter, Executive Director
211 N Broadway, #211
Green Bay 54303-2757
Phone: 920-448-2820
Fax: 920-448-2823
mwalter@baylakerpc.org
<http://www.baylakerpc.org/>

East Central Wisconsin RPC

Eric Fowle, Executive Director
132 Main Street
Menasha WI 54952-3100
Phone: 920-751-4770
Fax: 920-751-4771
efowle@eastcentrtrpc.org
<http://www.eastcentralrpc.org/>

North Central RPC

Dennis Lawrence, Executive Director
210 McClellan Street, Suite 210
Wausau WI 54403
Phone: 715-849-5510
Fax: 715-849-5110 (Fax)
dlawrence@ncwrpc.org
<http://www.ncwrpc.org/>

Northwest RPC

Myron Schuster, Executive Director
1400 South River Street, Spooner WI
54801
Phone: 715-635-2197
Fax: 715-635-7262
mschuster@nwrpc.com
<http://www.nwrpc.com/>

Southeastern Wisconsin RPC

Philip C. Evenson, Executive Director
W239 N1812 Rockwood Drive
PO Box 1607
Waukesha WI 53187-1607
Phone: 262-547-6722, ext. 240
Fax: 262-547-1103

Southwestern Wisconsin RPC

Larry Ward, Executive Director
719 Pioneer Tower,
One University Plaza
Platteville, WI 53818
Phone: 608-342-1713
Fax: 608-342-1220
wardla@uwplatt.edu
<http://www.swwrpc.org/>

West Central Wisconsin RPC

Jerry Chasteen, Director
800 Wisconsin Street, Building D2-401,
Mail Box 9
Eau Claire WI 54703-3606
Phone: 715-836-2918
Fax: 715-836-2886
jerry@wcwrpc.org
<http://wcwrpc.org/>

City of Delavan

Joe Salitros, City Administrator
P.O. Box 465
123 South Second Street
Delavan, WI 53115
Phone: 262-728-4566

Appendix G:

Wisconsin's Legal Opinion on Access and Ability to Secure Site if Loan Default

DATE: November 30, 2006

TO: Darsi Foss—RR/3
Brownfields Section Chief

FROM: Judy Mills Ohm— LS/5
Legal Counsel

JMO

SUBJECT: Legal Opinion regarding application for Brownfields Revolving Loan Fund; Legal authority to access and secure sites

You have requested a legal opinion on the following question regarding your application for a Brownfields revolving loan fund from the United States Environmental Protection Agency ("USEPA"):

Does the Wisconsin Department of Natural Resources ("WDNR") have legal authority to access and secure sites in the event of an emergency or default of a loan agreement or non-performance under a sub-grant?

My legal opinion on this question is as follows:

WDNR has the legal authority to obtain access to properties and to secure them in the event of an emergency or default of a loan agreement or non-performance under a sub-grant, in order to take environmental repair action at a site or facility, or if entry is necessary to prevent increased damage to the air, land or waters of the state.

WDNR has legal authority to obtain access to properties under ss, 292.11 (8) and 292.31(3)(e), Wis. Stats. Section 292.11(8), Stats., provides as follows:

292.11 (8) Access to property and records. Any officer, employee or authorized representative of the department, upon notice to the owner or occupant, may enter any property, premises or place at any time for the purposes of sub. (7) if the entry is necessary to prevent increased damage to the air, land or waters of the state, or may inspect any record relating to a hazardous substance for the purpose of ascertaining the state of compliance with this section and the management rules promulgated under this section. Notice to the owner or occupant is not required if the delay attendant upon providing it will result in imminent risk to public health or safety or the environment.

There is similar language in s. 292.31(3)(e), Stats., which relates to environmental repair actions at designated sites or facilities:

292.31 (3)(e) Access to property. Any officer, employee or authorized

representative of the department may enter onto any site or facility and areas surrounding the site or facility at reasonable times and upon notice to the owner or occupant to take action under this section. Notice to the owner or occupant is not required if the delay required to provide this notice is likely to result in an imminent risk to public health or welfare or the environment.

One of these two statutes would most likely apply in cases in which WDNR would make a loan or a grant under the revolving loan fund. WDNR could obtain access to any site or facility, under these statutes, to determine whether the site or facility is in compliance with the law regarding hazardous substance discharges, upon providing notice to the owner or occupant, in either emergency or non-emergency situations. If immediate access was necessary in order to prevent imminent harm to the environment, notice to the owner or occupant would not be required. In addition, if the owner of the property denied access to the property, WDNR has the authority to obtain a special inspection warrant in order to gain access to the property. This authority is found in s. 66.0119(2), Wis. Stats., which provides as follows:

66.0119 (2) A peace officer may apply for, obtain and execute a special inspection warrant issued under this section. Except in cases of emergency where no special inspection warrant is required, special inspection warrants shall be issued for inspection of personal or real properties which are not public buildings or for inspection of portions of public buildings which are not open to the public only upon showing that consent to entry for inspection purposes has been refused.

Thus, WDNR would have the authority under these statutes to access and secure sites in the event of an emergency or default of a loan agreement or non-performance under a sub-grant. As lead agency of the Coalition applying for the Brownfields revolving loan fund, WDNR could use this inspection authority to ensure adequate program performance by other Coalition members, borrowers and subgrantees, if necessary.

Appendix H:

Legal Opinion Demonstrating Authority to Manager an RLF

DATE: November 30, 2006

TO: Darsi Foss—RR/3
Brownfields Section Chief

FROM: Judy Mills Ohm—LS/5 xxi Q
Legal Counsel - J.

SUBJECT: Legal Opinion regarding application for Brownfields Revolving Loan Fund; Legal authority to manage a revolving loan fund

You have requested a legal opinion on the following question regarding your application for a Brownfields revolving loan fund from the United States Environmental Protection Agency ("USEPA"):

Does WDNR have legal authority to perform the actions necessary to manage a revolving loan fund, such as the ability to hold funds, make loans, enter into loan agreements and collect repayments?

My legal opinion on this question is as follows:

WDNR has the legal authority to perform the actions necessary to manage a revolving loan fund (such as the ability to hold funds, make loans, enter into loan agreements and collect repayments).

After applying for the USEPA Revolving Loan Fund program in 2003, WDNR pursued legislation to allow it to administer a loan program, specific to the money it would receive through the USEPA Revolving Loan Fund program. The legislation passed, and s. 292.72, Wis. Stats., was created. That statute provides as follows:

292.72 Brownfields revolving loan program.

- (1) The department may enter into an agreement with the federal environmental protection agency under which the department receives funds under 42 USC 9604 (k) (3) (A) (i) to establish and administer a brownfields revolving loan program. If the department receives funds under this subsection, it may make loans or grants for the remediation of brownfield sites, as defined in 42 USC 9601 (39), in accordance with the agreement.
- (2) At the request of another governmental entity, the department may administer funds received under 42 USC 9604 (k) (3) (A) (i) by the other governmental entity for the establishment of a brownfields revolving loan program.

In administering other grant programs, WDNR has utilized the authority under s. 66.0301, Wis. Stats., to enter into intergovernmental agreements with municipalities in order to disperse grant money to the municipalities. Sec. 66.0301, Wis. Stats., states that it is to be interpreted liberally in favor of cooperative action between municipalities (including the State and State agencies)

and between municipalities and federally recognized Indian tribes and bands. The statute also provides that such agreements or contracts may include provisions for the deposit and disbursement of funds appropriated. The relevant provisions of the statute are as follows:

66.0301(2) In addition to the provisions of any other statutes specifically authorizing cooperation between municipalities, unless those statutes specifically exclude action under this section, any municipality may contract with other municipalities and with federally recognized Indian tribes and bands in this state, for the receipt or furnishing of services or the joint exercise of any power or duty required or authorized by law. If municipal or tribal parties to a contract have varying powers or duties under the law, each may act under the contract to the extent of its lawful powers and duties. A contract under this subsection may bind the contracting parties for the length of time specified in the contract. This section shall be interpreted liberally in favor of cooperative action between municipalities and between municipalities and Indian tribes and bands in this state.

(3) Any contract under sub. (2) may provide a plan for administration of the function or project, which may include but is not limited to provisions as to proration of the expenses involved, deposit and disbursement of funds appropriated, submission and approval of budgets, creation of a commission, selection and removal of commissioners, and formation and letting of contracts.

Since the legislation passed that authorizes WDNR to administer a separate loan program specific to the money it receives from the USEPA Revolving Loan Fund program, WDNR can utilize s. 66.0301, Wis. Stats., to enter into loan agreements with municipalities and federally recognized Indian tribes. The agreements can specify the terms of the loans, including how loan repayments would be made.

Applicants who are successful in obtaining a Revolving Loan Fund will be allowed to award some of the money as grants and some as loans. WDNR and the other members of the Coalition applying for the Revolving Loan Fund currently administer a number of Brownfield grant programs and loan programs. WDNR administers the following programs:

1. Brownfield site assessment grant (SAG) program under s. 292.75, Wis. Stats. This program provides grants to local governments from the appropriation under s. 20.370(6)(et) for the purpose of conducting environmental investigation of environmental contamination at eligible sites or facilities and conducting certain removal actions at those sites or facilities. Grant recipients must provide a minimum match of 20% of the amount of the grant. Each recipient is required to sign a contract that includes enforceable conditions and sanctions if the grantee does not meet the conditions of the program.
2. Brownfield green space grant program under s. 292.79, Wis. Stats. This program provides grants to local governments for projects to remedy environmental contamination of brownfields, if the project will have a long-term public benefit, including the preservation of green space the development of recreational areas, or the use of a property by the local government. Grant recipients must provide a match of 20% to 50% of the amount of the grant. Each recipient is required to sign a contract

that includes enforceable conditions and sanctions if the grantee does not meet the conditions of the program.

3. Land recycling loan program under s. 281.60, Wis. Stats. This program provides financial assistance (through loans) to local governments for projects to remedy environmental contamination of sites or facilities at which environmental contamination has affected or threatens to affect groundwater or surface water.

Wisconsin's Department of Administration ("WDOA") works with WDNR to administer the clean water fund program, safe drinking water loan program and land recycling loan program, which include revolving loan funds (s. 281.59(2), Wis. Stats.). These loan programs include authority to enter into financial assistance agreements with applicants, to collect repayments and to collect the amount of any unpaid loan balance by deducting that amount from any state payments due the municipality (s. 281.59(2) and (11), Wis. Stats.).

In addition to the WDNR grant and loan programs, two other Wisconsin State agencies administer grant programs relating to Brownfields. The Department of Commerce administers the Brownfields Grant program under s. 560.13, Wis. Stats. This program awards grants based on the potential of the project to promote economic development in the area, whether the project will have a positive effect on the environment, the amount and quality of the recipient's contribution to the project and the innovativeness of the proposal. Also, the Department of Administration administers a Coastal Management program, which awards grants to eligible projects that protect or improve water quality in counties along the shores of Lake Michigan and Lake Superior. Examples of eligible projects include projects relating to public access, waterfront redevelopment, cleanup of brownfields, preservation of wetlands and land use planning.

Thus, WDNR and the other members of the Coalition have the current legal authority to perform the actions necessary to manage USEPA's Brownfields Revolving Loan Fund, such as the ability to hold funds, make loans, enter into loan agreements, collect repayments, and collect the amount of any unpaid loan balance if the loan recipient defaults on the loan.